



Federal Communications Commission
Washington, D.C. 20554

May 5, 2023

By ECF

Hon. David J. Smith
Clerk of Court
U.S. Court of Appeals for the Eleventh Circuit
56 Forsyth St., N.W.
Atlanta, Georgia 30303

Re: *Consumers' Research v. FCC*, No. 22-13315-DD
(oral argument scheduled for June 21, 2023)

Dear Mr. Smith:

This case concerns whether the FCC's universal service program violates the nondelegation or private nondelegation doctrines. As noted in Respondents' brief (at 17–18), Petitioners have raised materially identical constitutional challenges in the Fifth and Sixth Circuits.

Yesterday, the Sixth Circuit issued a unanimous published opinion that joined the Fifth Circuit in rejecting Petitioners' arguments. Pursuant to FRAP 28(j), a copy of that decision is attached.

Respectfully submitted,

/s/ Adam G. Crews

Adam G. Crews
Counsel for Respondent
Federal Communications Commission

cc: Counsel of record (via ECF)